

# **EXHIBIT A**

*In re National Prescription Opiate Litigation: MDL 2804*

**REPLY BRIEF IN FURTHER SUPPORT OF DEFENDANTS' *DAUBERT*  
MOTION TO EXCLUDE OPINIONS OF JONATHAN GRUBER**

**Summary Sheet**

**Motion Name:** Reply Brief in Further Support of Defendants' *Daubert* Motion to Exclude Opinions Of Jonathan Gruber

**Concise Description:**

Professor Gruber's key opinions are graphical depictions of statistics (for opioid use disorder (OUD), opioid mortality, and crime) comparing the U.S. counties in the top quartile for prescription opioid shipments with counties in the bottom quartile. *See* Gruber Rpt. at 55-61, 76-80, ¶¶ 79-87, 108-12. These depictions have no methodological underpinning, and Gruber admits that he presents them because they suggest stronger conclusions than might exist in the middle quartiles. *See* Gruber Tr. at 191:12-13. Yet Cuyahoga and Summit Counties are in the middle quartiles, and Gruber has performed no analysis to determine whether the effects his graphs purport to show hold true in the middle quartiles generally, or for Cuyahoga and Summit Counties specifically. In their opposition, Plaintiffs claim that Gruber performs a regression analysis, but hide the fact that his regression is completely unrelated to the graphics he uses to try to show causation. This rudimentary, stand-alone regression is also flawed on its own terms.

From his quartile graphs, Gruber seeks to conclude that shipments cause OUD, mortality, and crime, but as stated has no analysis to support those conclusions and relies instead on what his graphs might misleadingly suggest to a lay jury. He cites a couple of epidemiological papers but is not an epidemiologist himself, and those papers do not even contain the graphs that Gruber seeks to sponsor. Nor do those papers bless his baseless methodology. Even if these flaws were not fatal already, Gruber addresses all shipments together, proper and allegedly improper, and makes no effort to address any alleged Defendant misconduct. He also makes no effort to determine whether such misconduct directed to the Counties caused any expenditures by the Counties. His opinions therefore are neither reliable nor relevant, and should be excluded.

Filing Date: August 16, 2019